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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/775,458

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John Scott Heuvel

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EXAMINER

NGUYEN, CHI Q

ART UNIT

PAPER NUMBER

3635

MAIL DATE

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/775,458

**Applicant(s)**

HEUVEL ET AL.

**Examiner**

CHI Q. NGUYEN

**Art Unit**

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 February 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 21 is/are allowed.  
6) ☒ Claim(s) 1-20 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Office action is in response to applicant's amendment filed on 2/1/2008.

#### ***Status of Claims***

Claims 1-21 are pending and have been examined.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/1/2008 has been entered.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 3,897,619 to Thivans.

Claim 6:

Thivans discloses a pre-formed concrete section comprising: a deck 1 having: a first side, a second side opposite the first side, and a width extending between the first and second sides; a plurality of weldments 101/102 connected to and spaced along the

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first side; a top surface, a bottom surface opposite the top surface, and a thickness extending between the top and bottom surfaces; a first leg 3 and a second leg 3 projecting from the bottom surface; the deck further comprising: a first outer portion (see Fig. 2) extending generally from the first leg toward the first side, the thickness of the deck generally decreasing as the first outer portion extends outwardly from the first leg toward the first side; and a second outer portion (on opposite side) extending generally from the second leg toward the second side, the thickness of the deck generally decreasing as the second outer portion extends outwardly from the second leg toward the second side.

Claim 7:

Wherein the deck comprises: a central portion V disposed between the first and second legs, the thickness of the deck being substantially constant as the central portion extends along at least a portion of the width of the deck; a first inner portion extending between the first leg and the central portion of the deck, the thickness of the deck decreasing as the first inner portion extends inwardly from the first leg to the central portion; and a second inner portion extending between the second leg and the central portion of the deck, the thickness of the deck decreasing as the second inner portion extends inwardly from the second leg toward the central portion (see Fig. 2).

Claim 9:

Wherein the thickness of the deck decreases at a relatively constant rate as the first and second outer portions extend outwardly from the first and second leg, respectively, toward the first and second side, respectively (see Fig. 2).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 5,493,838 to Ross.

Claims 1-4:

Ross discloses in Fig. 2, a pre-formed concrete section 13 comprising a deck 38 including a first side 43, a second side 45 opposite the first side, and a width 40 extending between the first and second sides, a plurality of weldments 60 (see Fig. 9) connected to and spaced along the first side 43, a top surface, a bottom surface opposite the top surface, and a thickness extending between the top and bottom surfaces, and a first leg and a second leg 52 projecting from the bottom surface (Figs. 6-9), a distance in a direction substantially parallel to the deck. Ross discloses the basic structures for the concrete section as stated but does not specifically disclose a distance from the center of the first leg to the center of the second leg being more than two, three, four, or more than four times greater than the distance from the first side to the center of the first leg. However, this feature would have been a matter of obvious design choice to one of ordinary skill in the art at the time the invention was made for

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desirable application. Furthermore, applicant has not disclosed the criticality of this feature.

Claim 5:

Ross discloses the basic structures for the concrete section as stated but does not specifically disclose a distance between the center of the first leg and the center of the second leg is more than half the width of the deck. However, this feature would have been a matter of obvious design choice to one of ordinary skill in the art at the time the invention was made for pathway clearance purposes. Furthermore, applicant has not disclosed the criticality of this feature.

Claims 8 and 10-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 3,897,619 to Thivans.

Thivans discloses the basic structures as stated but does not expressly disclose wherein the thickness of the deck at the first side is less than the thickness of the deck at the central portion, wherein the width of the deck is between about 17 feet and about 19 feet, and wherein the width of the deck is about 18 feet, wherein the distance, in a direction substantially parallel to the deck, from the center of the first leg to the center of the second leg is more than two, three, four or more than half the width of the deck. However, this feature would have been a matter of obvious design choice to one of ordinary skill in the art at the time the invention was made to have such variable thickness, width, and a spacing distance between a center of the first leg to a center of the second is more than two, three, four or more than half the width of the deck for

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desirable application. Furthermore, applicant has not disclosed the criticality of this feature.

***Allowable Subject Matter***

Claim 21 is allowed.

***Response to Arguments***

Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

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/C. Q. N./

Examiner, Art Unit 3635

/Jeanette E Chapman/

Primary Examiner, Art Unit 3633